

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NO.1457 OF 2003

1.Shri Sambhaji Mahadeo Kadam,  
age 25 years, occupation-  
Agriculturist

2.Mahadeo Khandu Kadam,  
age 83 years, occupation-  
Agriculturist

3.Smt.Shantabai Mahadeo Kadam,  
age 65 years, occu.Household  
and agriculture

All residing at Laxmi Takli,      ...Appellants/  
Taluka Pandharpur, Dist.Solapur      Ori.Accd.1 to 3

Versus

The State of Maharashtra,  
(through Pandharpur Taluka  
Police Station)      ...Respondent

.....

Mrs.Poonam P.Bhosale for Appellants.

Mr.Y.S.Shinde, A.P.P. for Respondent.

.....

**CORAM: A.M.KHANWILKAR, J.**

**AUGUST 30, 2006.**

**ORAL JUDGMENT :**

1.            This Appeal takes exception to the

Judgment and Order passed by the IIIrd Additional Sessions Judge, Pandharpur dated November 19, 2003 in Sessions Case No.79 of 2000. The Appellants/accused Nos.1, 2 & 3 were charge-sheeted and tried for offence punishable under Sections 498-A, 304-B, 306 read with Section 34 of the Indian Penal Code (hereinafter referred to as the 'IPC').

2. The Trial Court on the analysis of evidence on record has found Appellants guilty of offence punishable under Sections 498-A, 306 read with Section 34 of the IPC. All the accused are acquitted of the offence punishable under Section 304 read with Section 34 of the IPC. The State has not challenged that part of the finding reached by the Trial Court. Accordingly, the scope of present Appeal revolves around the correctness of the view taken by the Trial Court with regard to offence under Sections 498-A, 306 read with Section 34 of the IPC.

3. Briefly stated, the prosecution case is that accused No.1 who is the son of accused Nos.2

and 3 was married to Sujata on 5th February 1999. The marriage was settled only after the complainant (PW 4)-father of Sujata agreed to pay dowry amount of Rs.80,000/- (Rupees Eighty Thousand), two tola gold and other household articles such as cupboard, cot, utensils. It is alleged that as per the agreement, complainant (PW 4) paid Rs.70,000/- (Rupees Seventy Thousand) and also gave articles referred to above including two tola gold at the time of marriage to the accused. It is alleged that on account of outstanding amount of Rs.10,000/- (Rupees Ten Thousand), soon after fifteen days from the date of marriage, the accused started causing harassment to Sujata with a view to coercing her and in particular, the complainant (PW 4)-her father to comply with the unlawful demand. It is alleged that since the payment of balance amount of Rs.10,000/- was not made, the harassment continued, and being fed up with that harassment, Sujata left her matrimonial house and stayed with her parents. It is alleged that the complainant paid the balance dowry amount of Rs.10,000/-. Even after payment of the balance dowry amount of Rs.10,000/-, the harassment to Sujata continued.

It is alleged that the accused continued harassment even after receiving the dowry amount on the ground that unwarranted publicity was given of the fact that the accused were insisting for payment of balance dowry amount. It is also the prosecution case that accused continued with the harassment of Sujata, as they suspected her character and chastity. It is alleged that Sujata left her matrimonial house and started staying with her parents. Eventually on 13th May 2001, on receiving message from accused persons, the complainant (PW 4) along with other common friends and relatives went to the house of accused along with Sujata. In the meeting, there was discussion about the cohabitation of Sujata with accused. It is alleged that in the meeting, accused No.2 uttered some insulting words to the complainant (PW 4), which resulted in exchange of hot words. Thereafter, accused No.2 filed criminal complaint in Police Station against the informant. However, subsequently, the disputes were amicably settled. It is stated that accused Nos.1 and 2 agreed to execute undertaking on stamp paper to look after Sujata properly when she would be in her

matrimonial house. Similarly, Sujata executed undertaking on stamp paper that she will behave properly with the accused. On executing the undertakings, Sujata went back to her matrimonial house on 15th May 2000 in the evening at about 5.30 p.m. It is alleged that on 17th May 2000, complainant (PW 4) received message from Shri Rajaram Dhondiba Gore (PW 1) about the death of Sujata on account of consumption of some poisonous pesticide. He was told that Sujata was admitted in Cottage Hospital, Pandharpur. The said information, in the first place, was received by Shri Rajaram Gore from one Chandan Shive, the neighbour of the accused. On receiving the information about death of Sujata, complainant rushed to the hospital. The dead body of Sujata was sent for post-mortem and on completing that formality, the body was handed over to the relatives. On the same evening, on 17th May 2000, funeral of Sujata was performed. Complainant (PW 4) went to the Police Station on 18th May 2000, at about 12.00 noon and registered First Information Report being Crime No.87 of 2000, alleging that Sujata committed suicide due to the harassment

caused to her by the accused persons with a view to coerce her and the complainant (PW 4) to meet unlawful demand and on account of failure to meet such demand.

4. The accused persons were arrested and after investigation, the case was committed to the Sessions Court. Charge came to be framed against the accused by the Trial Court, which reads thus:

"C H A R G E

I, S.W.Dhanokar, III Addl.Sessions Judge, Pandharpur, hereby charge you :

- 1) Sambaji Mahadeo Kadam, age 22
- 2) Mahadeo Khandu Kada, age 79,
- 3) Sou.Shantabai Mahadeo Kadam, age 62.

All R/o.Laxmi Takli, Tal.Pandharpur,  
Dist.Solapur.

As follows :

That on or before 17.5.00, at village Laxmi Takli, Tal.Pandharpur, you accused no.1 being the husband, accused no.2 being the father-in-law and accused no.3 being the mother-in-law of deceased Sujata Sambhaji Kadam, in furtherance of your common intention, subjected her to harassment and cruelty, by saying that the deceased and her parents made a propaganda amongst the relatives that they were compelled to pay the Dowry settled at the time of marriage of deceased and thereby

committed an offence, p.u.s.498A R/W.34, I.P.C.

That at the same time and place, the death of deceased Sujata Sambhaji Kadam was caused by poison otherwise than under normal circumstances, within 7 years of her marriage, and soon before her death, she was subjected to cruelty and harassment by you in connection with the demand of Dowry in furtherance of your common intention, and thereby you committed an offence, p.u.s. 304B r/w 34 I.P.C.

That at the same time and place, you accused nos.1 to 3 in furtherance of your common intention, abetted the commission of suicide by deceased Sujata Sambhaji Kadam, by subjecting her to harassment and cruelty in pursuance of your unlawful demand of Dowry and by suspecting her character and, thereby you have committed an offence p.u.s. 306 R/w.34, I.P.C. within my cognizance.

And I hereby direct that you be tried by me on the said charge."

The accused denied the charge and claimed to be tried.

5. The prosecution in support of its case, examined complainant Harishchandra Adnyan Satpute (PW 4) as also Rajaram Dhondiba Gore (PW 1), Sukracharya Eknath Dethe (PW 3) and Kum.Ujwala Shivaji Ronge (PW 5) to prove the fact that Sujata

was subjected to cruelty by the accused, on account of which harassment, she committed suicide.

6. The Trial Court on analysing the evidence of these witnesses has found that their evidence was reliable and it was safe to accept the same to hold that the prosecution has established the fact that Sujata was subjected to cruelty by the accused persons, and that, on account of such harassment, she committed suicide. The fact that the death of Sujata was caused due to consumption of pesticide, has been proved in evidence by examining the doctor and producing the medical records. On the basis of evidence on record, the Trial Court ultimately recorded finding of guilt against the Appellants for offence punishable under Sections 498-A, 306 read with Section 34 of the IPC. The Trial Court passed the following operative order while deciding the concerned sessions case, which reads thus :

"O R D E R

1. Under sec.235 Cr.P.C. each of accused is convicted for the offences punishable under sec.498A, 306 r/w 34 IPC.

2. U/s.498A IPC accused no.1 is sentenced to suffer R.I. for two years and to pay fine of Rs.1000/- in default to suffer S.I. for three months.

3. U/s.498A r/w 34 IPC each of accused no.2 & 3 are sentenced to suffer S.I. for six months & to pay fine of Rs.500/- each & to pay fine of Rs.500/- each in default to suffer S.I. for one month.

4. U/s.306 IPC accused no.1 is sentenced to suffer R.I. for seven years and to pay fine of Rs.1000/- in default, to suffer R.I. for six months.

5. U/s.306 r/w 34 IPC each of accused no.2 & 3 are sentenced to suffer R.I. for tow years & to pay fine of Rs.500/- each in default to suffer R.I. for three months.

6. All the sentences shall run concurrently.

7. All the accused persons are acquitted of the offence punishable under sec.304B r/w 34 IPC.

8. Accused to surrender their bail bonds.

9. U/s.428 Cr.P.C. set off is granted for the period from 18.5.2000 to 5.9.2000 during which accused persons were in Jail.

10. All the household article seized from the house of accused which were given to deceased Sujata at the time of her marriage be returned to Harischandra Satpute, after expiry of period of appeal. Rest of the property i.e. empty tin of Endosulphan be destroyed after expiry of period of appeal."

The above decision is the subject matter of

challenge in this Appeal.

7. After having considered the rival submissions and going through the record with the assistance of Counsel appearing for the parties, the first question that arises for consideration is: whether the approach of the Trial Court in appreciating the prosecution evidence which has come on record is inappropriate or manifestly wrong?

8. Insofar as this question is concerned, I have no hesitation in taking the view that the ultimate conclusion reached by the Trial Court to record finding of guilt against the Appellants that they had subjected Sujata to continuous cruelty after the marriage, which drove Sujata to commit suicide by consuming poisonous pesticide, those findings reached by the Trial Court will have to be accepted. I shall advert to the relevant evidence of the respective witnesses in this behalf a little later.

9. It needs to be noted that the fact that

Sujata died on account of consuming poisonous pesticide and her death was suicidal death, that finding reached by the Trial Court has not been assailed, in fact is unassailable one. For, there is clinching medical evidence to support the fact that Sujata died due to consumption of poisonous pesticide. In other words, her death was suicidal death. It is also indisputable that Sujata died within one year three months of the marriage with accused No.1. In this fact situation, the legal presumption available under Section 113-A of the Indian Evidence Act 1872 will come into play. It reads thus:

**"113-A.Presumption as to abetment of suicide by a married woman.-** When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband or such relative of her husband had subjected her to cruelty, the court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

*Explanation.-*For the purposes of this section, "cruelty" shall have the same meaning as in Section 498-A of the Indian

Penal Code (45 of 1860)."

10. In other words, the fact of Sujata having committed suicide and that happened within a period of seven years from the date of her marriage is established from the record. The other ingredient that needs to be established by the prosecution is: whether Sujata was subjected to cruelty by the accused. If that fact is held against the accused, the legal presumption under Section 113-A of the Indian Evidence Act, 1872 will leave no option to this Court, but to hold that the accused had abetted Sujata in commission of suicide, which she committed due to the continuous harassment and cruelty meted out to her by the accused. The expression "cruelty" is defined in Explanation to Section 498-A of the IPC, which reads thus:

*"Explanation.-* For the purposes of this section, "cruelty" means-

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such

harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand."

11. Keeping these provisions in mind, I shall now proceed to analyse the prosecution evidence to ascertain whether the prosecution has proved that the accused being husband and in-laws of deceased Sujata were responsible for subjecting Sujata to cruelty, which drove her to commit suicide.

12. The complainant (PW 4)/father of Sujata in his evidence has in the first place deposed that the marriage of Sujata with accused No.1 was settled on complainant agreeing to pay dowry amount of Rs.80,000/-, two tola gold and other household articles at the time of marriage. This agreement was reached in the meeting preceding the marriage which was attended by common friends and relatives including Sukracharya (PW 3). Complainant (PW 4) has also deposed that he paid sum of Rs.70,000/- and gave two tola gold and other household articles at the time of marriage, that amount of Rs.10,000/- was outstanding. He has then deposed that soon

after marriage, after about one month, when Sujata did not arrive, he went to the house of the accused. On reaching the house of accused, all the accused insisted for payment of balance dowry amount of Rs.10,000/- before Sujata was taken with him. He has then deposed that he promised to pay balance dowry amount of Rs.10,000/- at the time of Deepawali. On that assurance Sujata was allowed to accompany with him to his house. He has then deposed that Sujata informed him that because of non-payment of balance dowry amount of Rs.10,000/-, the accused were not providing her food properly and regularly and she was subjected to cruel treatment. He has deposed that Sujata had disclosed to him that she was subjected to ill-treatment soon after fifteen days from the date of marriage. He has then deposed that Sujata lived with the family in his house for about one month. He has then deposed that thereafter, he along with his wife and Sujata visited the house of accused to convince them that they should not subject Sujata to cruel treatment and he would pay Rs.10,000/- in Deepawali. He has deposed that he promised to give Rs.10,000/- because the accused had demanded the

same after she had visited their house. He has then stated that 15 days prior to Deepawali, Sukracharya (PW 3) had informed him that Sujata was subjected to cruel treatment by the accused and he should bring her back to his house. He has then stated that he (PW 4) along with Sukracharya (PW 3) went to the house of accused and brought back Sujata to his house. He has stated that even on this occasion, Sujata informed that accused were beating her and subjecting her to cruel treatment because of non-payment of balance dowry amount of Rs.10,000/-. He has then deposed that during Deepawali festival, he had received message from accused to send back Sujata to their house and pursuant thereto, Sujata returned to the house of accused along with his son Shivaji. He has then deposed that thereafter, at the time of Gudipadva, Sanjay Bhosle, relative of the accused came to his house and informed him that Sujata was subjected to cruel treatment. On receiving information, he (PW 4) and Sukracharya (PW 3) went to the house of the accused but Sujata was not found in the house. On enquiry with the accused they were informed that Sujata had gone along with her maternal uncle. He

has further deposed that he then deputed his younger son to enquire with the maternal uncle at Magarwadi. On enquiry, it was revealed that Sujata had not gone to Magarwadi. On receiving this information in the evening, complainant (PW 4) went to the house of the accused at 6.00 p.m. At that time, Sujata was found in the house and on enquiry, she informed that she had gone to Village Palshi. He has then stated that he then brought Sujata along with him to his house. It is further informed that while returning home, Sujata informed him that accused were subjecting her to cruel treatment because of publicity of their demand for balance dowry amount of Rs.10,000/-. He has stated that at Deepawali Festival of 1999, he (PW 4) and Sukracharya (PW 3) had gone to the house of the accused and paid balance dowry amount of Rs.10,000/- to the accused. He has then deposed that Sujata also informed that accused used to beat her, doubting her character and chastity. He has then deposed that Sujata stayed with him up to 13th May 2005. On 13th May 2005, on receiving message from the accused to send back Sujata to settle the dispute, complainant along with another friends and

relatives went to the house of accused. In the meeting, exchange of hot words took place between the complainant (PW 4) and the accused No.2. Accused No.2 filed complaint in the Police Station. He has stated that in the Police Station, accused Nos.1 and 2 promised to maintain Sujata properly. The accused Nos.1 and 2 also expressed willingness to execute undertaking on stamp paper. Accordingly, on 15th May 2000, undertaking was executed by accused Nos.1 and 2 as well as Sujata to maintain cordial relations. The undertakings on stamp papers have been proved in evidence and exhibited as Exhibits 26 and 28. Then he has deposed about having received information about death of Sujata from one Shri Gore (PW 1) on 17th May 2000. The complainant has been extensively cross-examined. The cross-examination of complainant (PW 4) was firstly directed as to the circumstances in which Sujata was married to accused No.1. He has stated that before the marriage was settled between the accused No.1 and Sujata, he had not proposed Sujata to any other person. He has stated that the family of accused owns about 30 to 40 acres of land at Village Takli.

The accused persons were related to him (complainant PW 4) through his co-brother Bhishmacharya. He has then stated that the accused No.1 is the only son of accused Nos.2 and 3 and for this reason, he preferred to settle the marriage of Sujata with accused No.1. In the cross-examination, he has spoken about the relations with Chandrakant Sawant, Mahadev Dethe and Sukracharya, who are the common relatives between the parties. He was then asked as to whether written list of articles to be given at the time of marriage was prepared, to which, he answered in the negative. He was asked whether he had furnished detailed information to the Police as to how he had collected Rs.70,000/-, to which, he answered in the negative. He was also asked whether he had furnished details to police as to from where he had collected balance dowry amount of Rs.10,000/- to which, he answered in the negative. He has deposed that on the household articles which were given in marriage by him or received by way of presents, name was inscribed. Paragraph 6 of the cross-examination is directed in respect of talks taken place before marriage for reaching agreement

of dowry amount of Rs.80,000/- and other articles. He has then admitted that no one from his family had gone to bring Sujata after initial period of one month from the marriage. It is stated that he had gone to the house of the accused after about one month to bring back Sujata to his house. On his request accused allowed Sujata to accompany him. Thereafter, Sujata lived with him and his family for one month. Suggestion was given to him that accused No.1 used to visit his house to meet Sujata during the said period of one month, which he has denied. He has deposed that during this period of one month, he did not make any attempt to meet accused Nos.1 or 2. He has then stated that when accused were repeatedly demanding balance dowry amount of Rs.10,000/-, he felt it necessary to arrange meeting of respectable persons. But except the meeting held on 13th May 2000, no other meeting was arranged to resolve the dispute. On questioning, he has deposed that on the next day after Sukracharya (PW 3) had informed him about cruel treatment given to Sujata by the accused, he had gone to the house of the accused. He has deposed that he was unable to tell the exact date

on which he paid Rs.10,000/- to the accused. He has also stated that he was unable to tell as to after how many days after Deepawali, he brought back Sujata to his house. He stated that Sujata was sent back to the house of the accused after receiving their message to send Sujata back. Thereafter, Sujata lived with accused till Gudipadva festival. During the stay of Sujata in the house of the accused, he had deputed his son to the house of the accused on two or three occasions. He stated that from Gudipadva up to the meeting held on 13th May 2000 Sujata lived with him and his family. Indeed, this witness has admitted that he has not mentioned in the Police complaint that accused used to beat Sujata by suspecting her character and chastity. Suggestion was also given to him that he was deposing false that deceased Sujata and Sukracharya (PW 3) informed him about cruel treatment given by accused on account of non-payment of balance dowry amount of Rs.10,000/-, which he has denied. Suggestion is also given to him that he was deposing false that inspite of payment of Rs.10,000/-, Sujata informed him that she was subjected to cruel treatment on the ground

as to why publicity was given to the demand made by the accused for balance dowry amount, which has been denied. Suggestion is also given to him that because of untimely death of his daughter, only with a view to harass the accused, he is deposing false. This is the tenor of the cross-examination. There is no serious challenge to this witness in the cross-examination to doubt his credentials. The only aspect that can be answered in favour of the accused is that this witness has accepted that in the police complaint, he did not mention that accused used to beat Sujata by suspecting her character and chastity. To that extent, the complainant (PW 4) has improved his case during evidence. Rest of the case made out by PW 4 has virtually gone unchallenged. Accordingly, on analysing the evidence of this witness as a whole, I am in agreement with the view expressed by the Trial Court that his evidence is trustworthy and inspires confidence. The version of complainant (PW 4) that Sujata was subjected to cruelty at the hands of accused gets corroborated on account of evidence of independent witnesses such as Shri Gore (PW 1), who is the neighbour of the complainant.

There is also evidence of Sukracharya (PW 3), who is related to both the parties. He was present not only when the agreement was reached between the parties that the complainant shall pay Rs.80,000/-, two tola gold and other household articles at the time of marriage. He has also deposed that he has witnessed payment of Rs.70,000/-, two tola gold and other household articles as well as subsequent payment of Rs.10,000/- to the accused. There is also evidence of Ujwala Ronge (PW 5) who was the friend of Sujata. PW 5 claims that Sujata confided in her about the cruelty inflicted on her by the accused persons. Insofar as the version of the prosecution witnesses that Sujata informed them about the harassment caused to her by the accused persons on account of non-payment of outstanding dowry amount is consistent and has remained unchallenged. That is the opinion expressed by the Trial Court, with which, I am in full agreement.

13. To consider this aspect, we shall refer to the evidence of PW 1. Indeed, he was not present when the settlement talks took place between the parties when the marriage between Sujata and

accused No.1 was finalised. This witness, however, had attended the marriage of Sujata and accused No.1. He has deposed that out of agreed dowry amount, amount of Rs.80,000/-, two tola gold and household articles at the time of marriage, complainant (PW 4) gave Rs.70,000/-, two tola gold and household articles as dowry. In Paragraph 2 in the examination-in-chief, he had deposed that Sujata had come to her parental house after about one month from the date of marriage. He further states that at that time, Sujata informed him and his wife that she was properly treated for about 15 days soon after the marriage, but subsequently the accused No.1 and his parents started subjecting her to cruel treatment on account of demand of balance dowry amount of Rs.10,000/-. He has then deposed that Sujata had come to their house in Deepawali in 1999. Even at that time, she disclosed that on account of non-payment of dowry amount of Rs.10,000/-, she was subjected to cruel treatment. He has mentioned that Sujata disclosed that she was not given proper food nor she was provided soap, hair oil, etc. He has stated that after Deepawali, Sujata returned to the house of her in-laws and

came back to her parents house at the time of Gudipadva in the year 2000. On this visit also, Sujata disclosed that her in-laws were subjecting her to cruel treatment because of non-payment of balance dowry amount of Rs.10,000/-. He has then deposed that thereafter, complainant informed him that he paid balance dowry amount of Rs.10,000/- and the accused have undertaken in writing on a stamp paper to maintain Sujata properly, for which reason, Sujata was sent back to her in-laws. He has deposed that one person by name Chandan Shive from Village Takli informed him that Sujata consumed poisonous pesticide and was taken to Cottage Hospital by her husband and maternal uncle of her husband. On receiving this information, he rushed to Village Patkul and informed complainant (PW 4) about the incident. Thereafter, he along with complainant went to the hospital. In the cross-examination with regard to the factum of ill-treatment, this witness was asked as to whether he had visited the house of accused before marriage of Sujata was settled, to which, he has answered in the negative. He was then asked as to whether he knew as to when the marriage was settled before it

was performed, to which he has replied in the negative. He has admitted that he was not present at the time of meeting for settlement of the marriage. He has then deposed that complainant (PW 4) had informed him the terms and conditions settled for the marriage. Even if the argument of the Appellants was to be accepted that this amounts to improvement, as, for the first time in the cross-examination, this witness has explained that complainant (PW 4) informed him about the terms and conditions settled for the marriage of Sujata, the fact remains that this witness has stated in examination-in-chief that he had attended the marriage and in the marriage, agreed dowry amount of Rs.70,000/- out of Rs.80,000/-, two tola gold and household articles were given to the accused. That evidence has not been challenged at all. To that extent, his evidence is relevant and corroborates the evidence of PW 4 and PW 3. In Paragraph 4 of the cross-examination, it is seen that this witness was asked whether after Sujata had informed him about cruel treatment at the hands of accused, did he feel it necessary to call a meeting to settle the dispute, to which, he

answered in the affirmative. He has then stated that personally he had not gone to the house of the accused in order to convince them, nor he had deputed his wife or daughter for the same. The credentials of this witness have not been challenged at all in the cross-examination. From Paragraph 4, it is seen that this witness was cross-examined as to whether he has stated before Police that accused were not providing soap to Sujata, to which, he has answered in the negative. He was then asked whether he had made statement before the Police that Sujata had informed him at the time of Gudipadva that because of non-payment of balance amount of dowry she was subjected to cruel treatment, to which he has answered in the affirmative. However, he has stated that he cannot assign any reason as to why it is not mentioned in the statement before Police. He has deposed that at the time when inquest panchanama was drawn by the Police, enquiry was made whether Sujata was subjected to cruel treatment. He has then deposed that information was furnished which was reduced in writing by the Police and his signature was obtained. Thereafter, suggestion is given to this

witness that he was deposing false that Sujata had informed him about the cruelty at the hands of accused because of non-payment of balance dowry amount or that he was deposing false that Chandan Shive has informed him that Sujata had consumed some poisonous pesticide, to which, he has replied in the negative. It was also suggested to him that he was deposing false at the instance of the complainant, since he was his neighbour, which he has denied.

14. On analysing the evidence of PW 1, it is obvious that it corroborates the version of PW 4 on material aspects that Sujata had disclosed to him about the ill-treatment and cruelty meted out to her by the accused persons on account of non-payment of the unlawful demand of the accused. The credentials of this witness have remained unchallenged. The version regarding the factum of disclosures made by Sujata to him about ill-treatment meted out to her by all the accused persons has remained unshattered. That version corroborates with the version of Pw 4-father of Sujata. In my view, there is no reason to depart

from the conclusion reached by Trial Court in finding that PW 1 supports the prosecution case that he attended the marriage of Sujata and the fact that complainant paid the dowry amount and other household articles at the time of marriage; and also on the point of continuous cruel treatment given to Sujata by accused persons, which version was based on the information given to him by Sujata herself.

15. The prosecution has also relied on the evidence of Sukracharya (PW 3). He is related to both the parties. He was witness to the meeting, which preceded the marriage between Sujata and accused No.1. This witness has deposed that in the meeting, it was agreed to pay dowry amount of Rs.80,000/-, two tola gold and other household articles. He has then stated that at the time of marriage, complainant (PW 4) paid Rs.70,000/-, two tola gold and other household articles to the accused. He has also supported the prosecution case regarding the fact that Sujata was ill-treated and harassed by the accused persons on account of non-payment of balance dowry amount of Rs.10,000/-.

This version is given on the basis of information given to him by Sujata herself. This witness has corroborated the evidence of PW 4 on crucial matters especially regarding the factum of Sujata having been subjected to cruelty by the accused persons, which information was given to him by Sujata herself. In the cross-examination, the credentials of this witness have not been challenged at all. Indeed, it was suggested to this witness that he was deposing falsely against the accused, as the land given to this witness for cultivation by the accused was withdrawn from him. However, besides the said suggestion, there is no evidence forthcoming as to why this witness should go to the extent of deposing about the culpability of the accused persons in the commission of offence of subjecting Sujata to cruelty. Reliance was placed on the admission given by this witness that he did not give any statement to the Police and that he came to know that accused were ill-treating Sujata for the first time when he was giving evidence. Indeed, those admissions appear in the record. However, from the materials on record, it is seen that Police had recorded statement of this

witness. The so-called admission appearing in the record obviously is on account of misunderstanding of the question put to him during the cross-examination. Besides this infirmity, no other material is brought to my notice, which would persuade me to accept the argument that this witness was untrustworthy or unreliable. This witness, as mentioned earlier, is related to both the parties. He has acted as mediator in settling the marriage of Sujata with accused No.1. There is nothing in the cross-examination except the suggestion given to him that he was deposing falsely regarding the fact of accused being responsible for ill-treating or subjecting Sujata to cruelty, which suggestion has been denied by him. I am in agreement with the opinion recorded by the Trial Court that version of this witness also corroborates the evidence of PW 4 regarding the factum of Sujata having been subjected to cruelty at the hands of the Appellants/accused.

16. Prosecution has also relied on the evidence of Ujwala Ronge (PW 5). She was the friend of Sujata, staying in the house which was 50

feet away from the parental house of Sujata. She has deposed that when one month after marriage, Sujata visited her parental house, Sujata told her that after first fifteen days of the marriage, she has been subjected to cruelty by the accused on account of non-payment of balance dowry amount of Rs.10,000/-. She has also deposed that Sujata on her return to her parental house in Deepawali and again at the time of Gudipadva, disclosed that there was increase in cruel treatment given to her. Sujata informed her that food was not served properly and timely to her. She has further deposed that when Sujata returned to her parental house in Gudipadva in 2000, Sujata informed her that there was no improvement in the behaviour of the accused persons even after the balance amount of Rs.10,000/- was paid to them. Sujata informed her that accused were subjecting her to cruel treatment on the ground that Sujata's father had given publicity to the demand of accused of the balance amount of dowry of Rs.10,000/- and also because accused were suspicious about her character. In the cross-examination of this witness, there is nothing to show that her

credentials have been challenged. The version given by this witness has virtually gone unchallenged including the fact that Sujata was being ill-treated by the accused as they suspected her character. Suggestion has been given to this witness that Sujata was unwilling to perform marriage with person of the same village, which has been denied. The defence, even on applying the test of preponderance of probability has failed to show that Sujata committed suicide because of reason other than alleged by the prosecution. No case has been put to this witness that Sujata committed suicide on account of reason other than the one alleged by the prosecution. Only suggestion which has been given to this witness is that she was deposing false, as she was neighbour of Sujata, which suggestion has been denied.

17. From the totality of evidence on record, the conclusion reached by the Trial Court that the prosecution has proved the fact that Sujata was subjected to cruelty by all the accused on account of non-payment of balance dowry amount and later on because the accused were upset that Sujata's father

(PW 4) was responsible for giving publicity about the unlawful demand made by the accused persons. Suffice it to observe that the prosecution has proved that Sujata was a harassed person at the hands of all the accused as is spoken by the prosecution witnesses, and because of such continuous ill-treatment meted out to her by the accused in her matrimonial house on account of non-payment of the balance dowry amount and later for publicity given regarding such demand, drove Sujata to commit suicide. The prosecution witnesses have spoken against all the accused on this fact, which evidence has remained unshattered. On this finding, the ultimate conclusion reached by the Court below having found all the accused guilty of offence under Sections 498-A and 306 read with Section 34 of the IPC does not warrant any interference by this Court.

18. Counsel for the Appellants had contended that there was absolutely no evidence against the accused Nos.2 and 3 regarding demand or for that matter, subjected Sujata to cruelty. There is no substance in this submission. The prosecution

witnesses have consistently deposed that Sujata had disclosed that accused No.1 as well as accused Nos.2 and 3 subjected her to cruelty on account of non-payment of balance dowry amount of Rs.10,000/-. PW 4 has deposed that when he visited the house of accused, all accused persons demanded dowry amount of Rs.10,000/-. This version of PW 4 has remained unshaken and unchallenged. The prosecution witnesses have consistently stated that Sujata had complained about being subjected to cruelty by all the accused and not singled out accused No.1 alone. Thus understood, there is no substance in the argument of the Appellants 2 and 3 as is pressed into service.

19. It was next contended on behalf of the Appellants that accused No.1 had not cohabited with deceased Sujata. There was no legal evidence about physical cruelty or any physical struggle having taken place between them. Indeed, PW 4 has spoken about deceased Sujata being beaten by accused, suspecting her character and chastity, which fact was not stated by him in the complaint. However, the same fact has been spoken by Ujwala Ronge (PW

5) to which there is absolutely no challenge. The fact that no medical evidence has come on record that Sujata was physically assaulted, does not affect the prosecution case on the other allegations. The prosecution case, consistently spoken by the prosecution witnesses is that, Sujata had disclosed to them that she was being subjected to cruelty by the accused. She was not given proper food at proper time. Besides, she was being deprived of soap, hair oil etc. The fact remains that all the witnesses have spoken about disclosure made by Sujata to them of having been subjected to cruelty at the hands of the accused due to nonfulfillment of the unlawful demand.

20. It was then contended by the Counsel for the Appellants/accused that the evidence regarding dowry amount paid to accused persons is hearsay evidence. It is not possible to countenance this submission. There is evidence of PW 4 who himself has paid the amount. PW 1 has also spoken of the fact that dowry amount and other articles were given to the accused at the time of marriage. That version is also corroborated by PW 3. It is

therefore not a case of hearsay evidence as such.

21. It was argued by the Counsel for the Appellants/accused that death of Sujata was on account of suicide committed by her due to her own problems and not related to being subjected to cruelty at the hands of accused. However, this submission is not supported by any legal evidence. On the other hand, the prosecution has succeeded in establishing that Sujata died due to consumption of poisonous pesticide, which was a case of suicide; the reason for suicide is far too obvious from the consistent version given by the prosecution witnesses that Sujata was continuously complaining of having been subjected to cruelty at the hands of the accused from fifteen days of marriage in connection with nonfulfillment of the unlawful demand of dowry. Sujata had went back to her matrimonial home on the evening of 15th May 2000 after both sides had executed undertaking on stamp paper to behave properly and show due regard to each other. The incident in question had happened immediately on 17th May 2000. No explanation is forthcoming as to why Sujata was driven to commit

suicide when she had willingly gone back to the matrimonial home on assurance being given to her that she will be treated properly. The developments that have taken place between the night of 15th May 2000 up to the night of 16th May 2000 are in the exclusive knowledge of the accused persons with whom she was staying at the relevant time and no other person had visited their house. No explanation is forthcoming in this behalf except denial of the prosecution case. It is not possible to countenance the submission that Sujata committed suicide on account of some other reason other than the allegation established by the prosecution evidence.

22. Accordingly, I have no hesitation in affirming the finding of guilt recorded by the Trial Court against the Appellants/accused for offence punishable under Section 498-A, 306 read with Section 34 of the IPC.

23. The next point argued was on the quantum of sentence. The Trial Court has ordered that the Appellant No.1/accused No.1 to undergo sentence of

rigorous imprisonment of two years and pay fine of Rs.1,000/- (Rupees One Thousand), in default, to suffer simple imprisonment for three months for offence punishable under Section 498-A read with Section 34 of the IPC and additionally for offence under Section 306 read with Section 34 of the IPC to suffer rigorous imprisonment for seven years and to pay fine of Rs.1,000/- (Rupees One Thousand), in default, to suffer rigorous imprisonment for six months.

24. Insofar as Appellants Nos.2 and 3/accused Nos.2 and 3 respectively are concerned, having regard to their old age, the Trial Court has shown leniency and therefore ordered them to undergo sentence of simple imprisonment for six months and to pay fine of Rs.500/- (Rupees Five Hundred) each, in default, to suffer simple imprisonment for one month for offence punishable under Section 498-A read with Section 34 of the IPC and additionally to suffer rigorous imprisonment for two years and to pay fine of Rs.500/- (Rupees Five Hundred) each, in default, to suffer rigorous imprisonment for three months with regard to offence under Section 306

read with Section 34 of the IPC. It is also ordered that the sentences shall run concurrently.

25. Counsel for the Appellants/accused submits that the Appellant No.1 is the only son of Appellants 2 and 3. The Appellants have 30 to 40 acres of landed property. There is no other male person in the house of the Appellants who can look after the said property. Insofar as the Appellants 2 and 3 are concerned, it is argued that having regard to their old age being 85 years and 70 years respectively, lenient view may be taken.

26. After considering the submissions on this aspect, I find that the Trial Court has awarded sentence keeping in mind these aspects. It is not possible to hold that the sentence awarded by the Trial Court is excessive or unjust, having regard to the nature of offence for which the Appellants have been found guilty. In my opinion, it is not possible to show any indulgence to the Appellants including to Appellants 2 and 3, as the Trial Court has already taken a lenient view of the matter

while imposing the sentence against the concerned accused as referred to above. There is no tangible reason or mitigating factor that would persuade this Court to reduce the sentence awarded by the Trial Court. Hence, the argument regarding quantum of sentence also does not commend to me. Counsel for the Appellants would then rely on the decision of the Apex Court in the case of **Budhan Singh & Ors. vs. State of Bihar reported in 2006 All MR (Cri.) 1830 (S.C.)**. to contend that at least the sentence of Appellants 2 and 3 be reduced. It is submitted that the said Appellants have already undergone imprisonment for a period of about four months. I find no merit in this submission. I have already noted that the Trial Court has given due regard to the age factor of these Appellants while imposing the sentence. So far as the decision pressed into service, that is of no avail to the Appellants. In the first place, the Apex Court was dealing with a case where the accused was found guilty of offence referable to Chapter XI of the IPC - concerning of false evidence and offence against public justice (Section 201). In Paragraph 37 of the reported decision, the Apex Court has

noted that the concerned Appellants were not connected with the first part of the occurrence, which was a serious offence. The Appellants therein were involved only in causing disappearance of evidence of the main offence. In the present case, however, the charge proved against the Appellants 2 and 3 is of offence referable to Chapter XVI of the IPC of offences affecting the human body (Section 306) and under Chapter XXA of subjecting woman (daughter-in-law) to cruelty, driving her to commit suicide (Section 498-A). In such a case, it is not possible to accept the request of the Appellants 2 and 3 to reduce the sentence.

27. Accordingly, this Appeal fails. The same is dismissed.

28. Needless to observe that the Appellants will be entitled for set-off for the relevant period during which they were in custody in connection with the present offence. Bail-bonds of Appellants/accused Nos.2 and 3 are cancelled.

Appellants/accused Nos. 2 and 3 shall surrender to undergo sentence awarded by the Trial Court as affirmed by this order within eight weeks from today.

A.M.KHANWILKAR, J.